

## INTRADEPARTMENTAL CORRESPONDENCE

January 6, 2020

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**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** Law Enforcement Related Injury No. 007-19

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Honorable Members:

The following is my review, analysis and findings for Law Enforcement Related Injury (LERI), Force Investigation Division (FID) No. 007-19. A Use of Force Review Board (UOFRB) was convened on this matter on December 2, 2019. I have reviewed and adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

### **SUMMARY<sup>1</sup>**

On March 13, 2019, at approximately 1650 hours, Officers R. Sweet, Serial No. 42017, and K. Smith, Serial No. 41231, Hollenbeck Area Gang Enforcement Division (GED), were dressed in full uniform and driving a hybrid black and white police vehicle while conducting crime suppression in Hollenbeck Area, near the intersection of 1st Street and Soto Street.

**Note:** Officers Sweet and Smith had worked together for approximately four months. The officers had discussed tactics including contact and cover roles, the appropriate responses to high-priority radio calls such as shootings and robberies, and foot pursuit concepts, which included containment versus apprehension mode, separation, broadcasting responsibilities and tactical communication.

According to Officers Smith and Sweet, they previously received information in roll call regarding *gang problems*, homicides, ADW shootings, robberies, weapons violations and acts of vandalism in the area of 1st Street and Soto Street and were conducting *crime suppression* to lower the incidence of the described Part-One crimes in the area of the Metropolitan Transportation Authority (MTA) Gold Line platform.<sup>2</sup>

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<sup>1</sup> The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.

<sup>2</sup> On July 1, 2017, the Los Angeles Police Department took over the responsibility *for the safety and security of all Metropolitan Transportation Authority (MTA) buses and rails in the City of Los Angeles*. The first goal of the partnership is to *reduce crime* for the citizens utilizing the MTA and neighboring patrol divisions often assist Transit Services Division (TSD) with implementation of crime reduction strategies.

The FID investigation determined that from January 1, 2019 to March 13, 2019, there were a total of 80 Part-One crimes in the area: 26 Burglary/Theft from Motor Vehicles, 14 Thefts, three Burglaries, nine Grand Theft Autos, 10 Aggravated Assaults, two Arsons, two Rapes, eight Robberies and two Homicides. Two of the Aggravated Assaults and both Homicides were gang-related. One of the Homicides occurred just northwest of the MTA Gold Line Platform earlier on the same morning of this Categorical Use of Force (CUOF). The other Homicide occurred on January 8, 2019, at the northwest corner of 1st Street and Soto Street. FID investigators presented at the UOFRB that the location of the January 8, 2019 homicide was approximately one-quarter mile away from the area of the MTA platform.

According to Officer Sweet, he looked towards the MTA Gold Line platform at 1<sup>st</sup> Street and Soto Street and observed three individuals who were sitting on a concrete wall near a sign *stating no loitering*. Officer Sweet asked Officer Smith if he *knew* the people in the group and heard Officer Smith say that he “did not know” them. Officer Sweet then replied, “I’ll pull in here and we could talk to them.” Officer Sweet drove the police vehicle *into the driveway to detain the group* for the *loitering violation*. During this time, Officer Sweet momentarily lost sight of Castillo and heard Officer Smith ask, “Where did he go?” Officer Sweet then drove towards the benches where he had last observed Castillo sitting.

According to Officer Smith, the officers were traveling south on Soto Street and negotiated a westbound turn onto 1st Street. Officer Smith observed the suspect, later identified as T. Castillo, and two unidentified females, sitting on a bench to the rear of the MTA Gold Line platform located on the southwest corner of 1st Street and Soto Street.<sup>3</sup> Officer Smith observed that the *three individuals were sitting down, loitering in the rear, southwest corner of the platform and talking amongst each other*. Officer Smith formed the opinion that the three individuals were *just hanging out* as they *didn't appear to be waiting for a bus*. Officer Smith advised his partner, “Hey, let's go talk to that group over there.” Officer Smith noted that the three individuals were not sitting in an area commonly utilized by MTA patrons who would be waiting to board a train. Officer Smith explained that he believed that patrons took either the *escalator* or the *elevator down below* to the platform boarding area. His intent was to *detain them for the LAMC violation of loitering, find out who they are, and then advise them that they can't be hanging out here just loitering on the platform*.<sup>4</sup> (Debriefing Point No. 1).

According to Officer Smith, as the officers made a *left turn* and drove towards the individuals he observed that he *couldn't see Castillo anymore*, prompting Officer Smith to ask, “Hey, where's this guy at?” Officer Smith then observed Castillo *begin to run westbound through the bushes* and advised Officer Sweet, “He's running through the bushes.”

According to Officer Sweet, he observed Castillo in the bushes with his back to the officers. Castillo looked back toward the officers and then fled south on foot into the alley while *grabbing his waistband as he was fleeing*. This observation led Officer Sweet to form the opinion that Castillo may be armed with a *weapon* or concealing *contraband*.

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<sup>3</sup> Castillo was a 16-year old juvenile at the time of the incident. For clarity and consistency with referenced Department policies and procedures, Castillo will be referenced as a “suspect,” rather than “subject.”

<sup>4</sup> Loitering – 41.18 of the Los Angeles Municipal Code (LAMC).

According to Officer Smith, as he exited the police vehicle, he observed Castillo grab his *right front waistband area* and it appeared to him that Castillo was *trying to tug at something*, possibly *an unknown type weapon* as he fled on foot. Officer Smith quickly exited the police vehicle and initiated a foot pursuit of Castillo southbound through the alley. Officer Smith believed Officer Sweet would be unable to place themselves Code Six in a timely manner since he would be *dealing with the vehicle*. Officer Smith *wanted to show themselves Code Six to get units started* their way, so he utilized his hand-held radio to broadcast, “Show me in foot pursuit, 415 man with a gun, north/south alley, west of Soto, south of 1<sup>st</sup>,” on Hollenbeck base frequency.

**Note:** The UOFRB reviewed Officer Smith’s BWV and noted that he unholstered his hand-held radio and began to broadcast that he was in foot pursuit on Hollenbeck base frequency approximately nine seconds after he opened his police vehicle’s passenger door. The UOFRB also noted that Officer Smith stated that he had difficulty removing his handheld radio from its holster since the radio was *snapped in*. (**Debriefing Point No. 2**).

Officer Smith explained to FID investigators that the reason he believed Castillo could be armed was due to his prior experience that *most people* are *right-handed* and, as a result, most armed suspects carried their weapons *either in their right pocket or something easily accessible for the right hand or their dominant hand*. Officer Smith also acknowledged that although Castillo’s hand placement was consistent with carrying a weapon such as a *gun* or a *knife*, he also could have been grasping another object such as a *spray can*.

According to Officer Sweet, he stopped the police vehicle and observed Officer Smith exit and initiate a foot pursuit of Castillo, who ran south in the alley. Officer Sweet removed the keys from the ignition, exited the police vehicle and observed that Officer Smith was running *approximately 40 feet* ahead of him. Officer Sweet observed Castillo running south in the alley, followed by Officer Smith. He observed Officer Smith broadcasting with his hand-held radio, but could not hear what was being transmitted. Officer Sweet *continued to run as a secondary officer* and then heard Communications Division (CD) broadcast their *unit designation* and that they *were in a foot pursuit*. As they ran south in the alley, Officer Sweet never lost sight of Castillo and kept Officer Smith *within his line of sight*. Officer Sweet believed that he could have immediately rendered aid to Officer Smith if necessary during the foot pursuit.

Force Investigation Division investigators presented at the UOFRB that the length of the foot pursuit was approximately 315 feet and lasted approximately 17 to 20 seconds.

According to Officer Smith, he directed Castillo to “stop” and “get on the ground” *two or three* times during the foot pursuit. Castillo ignored the commands and continued to flee on foot. Officer Smith observed a citizen point towards the end of the alley and he observed Castillo *approximately 20 to 40 feet* ahead of him, *hanging on the fence*. Due to his prior observations that Castillo had reached towards his waistband and his belief that Castillo may be armed, Officer Smith *slowed down to a fast walk*, holstered his hand-held radio, and drew his service pistol as he approached Castillo (**Drawing/Exhibiting**).

**Note:** A review of Body Worn Video (BWV) revealed that Officer Smith initially maintained his hand-held radio in his left hand while he drew his service pistol with his right hand.

According to Officer Smith, he then gave Castillo commands to “Get off the fence” and “Put your hands behind your back.” Castillo did not comply with the commands, and instead grabbed the top of the gate and pulled himself further up. Castillo lifted his chest and shoulders near the top of the gate and from a distance of approximately 10 to 15 feet, Officer Smith could see that Castillo’s hands were on top of the fence. Officer Smith considered himself to be in *apprehension mode* because Castillo *did not have any weapons* within his grasp and his hands were *on top of the fence* and being used to pull himself up. Officer Smith indicated that he was concerned that Castillo may scale the fence and *run into somebody else's house*, which prompted him to holster his service pistol and approach Castillo to take him into custody *before Castillo could finish pulling himself over the fence (Debriefing Point No. 3)*.

According to Officer Smith, he *grabbed* Castillo around his waist to prevent his escape over the fence. As he made physical contact with Castillo’s right-side waistband, Officer Smith immediately felt the handle of an *unknown type weapon* with his right hand. Officer Smith *didn't know what it was* – he *just felt a hard-handled object* and believed Castillo to be carrying a concealed weapon. In fear for his safety, Officer Smith *grabbed onto* it and *didn't let go*. As Officer Smith grabbed the unknown object in Castillo’s waistband, Castillo moved his left leg in a downward motion and *kicked* Officer Smith on the *chest attempting to kick him away*. Officer Smith maintained his grasp of the object and also grabbed onto Castillo’s right leg to control Castillo’s movement. Castillo then *tried to kick* Officer Smith *a couple other times* causing Officer Smith’s BWV and hand-held radio to fall to the ground. Officer Smith used a firm grip on Castillo’s left hip and right leg and continued to struggle to keep Castillo from climbing the fence (**Non-Lethal Use of Force**).

**Note:** A review of Officer Smith’s BWV revealed that it fell face down onto the ground and distorted the video’s field of view. Officer Smith did not know if it was the first or second kick from Castillo that knocked his BWV and hand-held radio to the ground. He also initially did not recall exactly how he had lost his rover as he believed that he had *holstered it*. According to FID investigators, the BWV depicted that Officer Smith’s right hand was empty and his handheld radio was in his left hand at the time he initially made physical contact with Castillo.

A review of Officer Sweet’s BWV by FID investigators revealed that the recording captured that Officer Smith’s service pistol was holstered and both of Officer Smith’s hands were empty while he was grabbing Castillo who was trying to climb over the fence.

According to Officer Sweet, he was not in a position to observe Castillo kick Officer Smith because Officer Smith’s back was facing him when he first observed him holding onto Castillo.

The FID investigation revealed that Officer Smith's uniform had a dirt mark on the area of the chest. FID investigators presented during the UOFRB that Officer's Smith BWV contained a frame of video image which appeared to capture Castillo's left shoe kicking Officer Smith.

According to Officer Sweet, he *came around the corner of one of the properties* near the end of the alley and observed Castillo *was up onto the fence as if he was trying to jump over*. Officer Smith *had his hands around Castillo's waist area* and was *attempting to pull him down*. Officer Sweet approached and gave Castillo *commands* to, "Let go of the fence," so that officers *could detain him*. Castillo ignored Officer Sweet's commands and *was trying to force his way up over the fence*.

FID investigators presented at the UOFRB that Officer Sweet was approximately 100 feet behind Officer Smith and that approximately seven seconds had elapsed from the time Officer Smith made initial physical contact with Castillo to the time of Officer Sweet's arrival at the termination of the foot pursuit.

According to Officer Smith, as Castillo was still attempting to kick him, Officer Sweet *approached and grabbed onto the left side of Castillo's body* prompting Officer Smith to *transfer over to Castillo's right side*. As Castillo continued to struggle with the officers, Officer Smith made eye contact with Officer Sweet and the officers *attempted to coordinate* their movements as they pulled Castillo downward. As both officers *began to pull*, Castillo's *exterior shorts fell down to his ankles*, which forced the officers to re-grip their *hands around Castillo*. Officer Smith maintained a grasp of *the weapon* with his right hand. Officers Smith and Sweet *grabbed both legs and pulled down* causing Castillo to fall *off the fence* and onto *his back*. The officers then *rolled Castillo over* and Officer Smith placed his left knee on Castillo's upper back (**Non-Lethal Use of Force**).

According to Officer Sweet, he *grabbed onto Castillo's left ankle* and stated, "I got him." After Officer Sweet established a firm grip on Castillo, the officers *started pulling* before Officer Sweet *realized Castillo's shorts were coming down*. Officer Sweet *readjusted his grip and was able to get a hold of Castillo's left ankle*. Officers Sweet and Smith then *pulled on Castillo* a second time and Castillo fell *off the fence*. As Castillo hit the ground, Officer Sweet *heard a loud clanging noise – like something metal had hit the ground*. The officers placed Castillo onto his stomach before Officer Sweet *placed his body weight onto Castillo's right thigh* and obtained *a firm grip on his right arm* (**Non-Lethal Use of Force**).

FID investigators presented at the UOFRB that Castillo had already grasped the corrugated metal fence with his left hand and attempted to climb over the fence to escape prior to the officers pulling him down.

According to Officer Smith, he then grabbed Castillo's left hand and placed it behind Castillo's back, which allowed Officer Sweet to handcuff Castillo. Officer Sweet then utilized his hand-held radio and broadcasted a Code Four over Hollenbeck Area frequency. Officer Smith walked a few feet away and recovered his radio and BWV camera from the ground.

The FID investigation determined that Officer Smith activated his BWV after retrieving it from the ground. A review of the BWV recording, which has been confirmed by FID investigators, indicated that once the audio recording was activated, the initial image captured Officer Sweet standing approximately two to three feet away from Castillo looking at him, while Castillo was lying stomach-down on the ground. Officer Sweet proceeded to bend over and recover a can of spray paint from Castillo's left-front sweatshirt pocket. After broadcasting a request for a supervisor, Officer Smith walked back toward Officer Sweet and Castillo. Officer Smith can then be heard stating, "Sit him up. Let's see what he was grabbing onto." (**Additional Tactical Debrief Topics – BWV Activation and Searches of Arrestees**).

According to Officer Sweet, once Castillo was rolled over and sat up, he was able to see *a broken machete that was in a sheath tucked into Castillo's waistband area. He noticed there was a bulge in Castillo's right sock.* Officer Sweet recovered a green leafy substance resembling marijuana which was subsequently booked as evidence along with the machete and can of spray paint.

The FID investigation determined Castillo was armed with a 18-inch machete with a dual edged serrated blade and black plastic handle. According to the Property Report related to Castillo's arrest, DR No. 19-0400707, a black/clear plastic Ziploc baggie containing a green leafy substance resembling marijuana and an 11-ounce can of blue spray paint was booked to Castillo.

According to Officer Smith, he observed some blood on Castillo's hands, which prompted him to broadcast a request for a Rescue Ambulance (RA).

Officers U. Flores, Serial No. 39923, and T. Duong, Serial No. 41581, Hollenbeck Area GED, arrived at scene to assist with the investigation. Officer Flores identified two witnesses.

Witnesses E. Gonzalez and A. Padilla, MTA security guards, were patrolling the MTA Gold Line Platform and also observed Castillo and the two unidentified females sitting on the concrete benches. According to Padilla, he observed Castillo and the females loitering and drinking an unknown-type beverage from a black plastic bag. Padilla intended to eventually advise Castillo and the others that they were loitering and direct them to leave. Gonzalez and Padilla continued to monitor Castillo and the other females. Gonzalez and Padilla then observed Officers Sweet and Smith approach the location in their police vehicle and Castillo flee on foot into the alley as the officers drove onto the Platform. Neither Gonzalez nor Padilla witnessed the CUOF.

Sergeants J. Vasquez, Serial No. 30976, and L. Olea, Serial No. 35700, Hollenbeck Area GED, arrived at scene. Officer Sweet advised Sergeant Olea that a Use of Force (UOF) had occurred. Sergeant Olea then began a Non-Categorical Use of Force (NCUOF) Investigation.

Los Angeles Fire Department (LAFD) personnel arrived at scene and conducted a medical assessment of Castillo at scene for lacerations to his left hand. LAFD personnel transported Castillo to the Los Angeles County University of Southern California Medical Center (LAC+USC), Pediatrics Ward. Officer Flores rode in the RA and Officer Duong followed in his police vehicle (**Additional - Body Worn Video Activation**).

Officers Flores and Duong monitored Castillo at the hospital. At approximately 2015 hours, Officer Duong telephonically updated Sergeant Olea that Castillo would be admitted to the hospital. Sergeant Olea conducted a follow-up to the hospital and verified with Doctor C. Feng, Emergency Room Physician, LAC+USC, that Castillo was being admitted pending surgery on his hand for damaged tendons (Medical Record No. 101532360).

Sergeant Olea then made notifications to Sergeant A. Gallegos, Serial No. 35849, Watch Commander, Hollenbeck Patrol Division, who initiated Post-CUOF Department protocols. Sergeant Gallegos notified the Department Operations Center (DOC) that a Law Enforcement Related Injury (LERI) and CUOF had occurred in Hollenbeck Area. Officers Smith and Sweet, who were completing an absentee booking at the Metropolitan Detention Center, responded to Hollenbeck Community Police Station.

Sergeant J. Chacon, Serial No. 32437, Hollenbeck Area GED, monitored Officer Smith and ordered him to not discuss the incident.

Sergeant Vasquez monitored Officer Sweet and ordered him to not discuss the incident.

## **FINDINGS**

**Tactics – Tactical Debrief, Officers Smith and Sweet.**

**Drawing and Exhibiting – In Policy, No Further Action, Officer Smith.**

**Non-Lethal Use of Force – In Policy, No Further Action, Officers Smith and Sweet.**

## **ANALYSIS<sup>5</sup>**

### **Detention**

The involved officers were conducting crime suppression in the area of 1<sup>st</sup> Street and Soto Street in the area of the MTA Gold Line Train Station Platform. Due to their previous experience, the officers were aware that the MTA station and the surrounding neighborhood had experienced numerous shootings, robberies, vandalisms, gang activity and recently had a homicide. Officers Sweet and Smith observed Castillo, who was with two other unidentified females, congregating at the concrete benches and planter at the rear southwest corner of the Platform near a clearly posted sign which advised readers of numerous prohibited activities, including “loitering.” The officers drove their police vehicle onto the driveway and turned toward the individuals, losing sight of Castillo. Castillo had moved into the planter standing with his back toward the officers. Officer Sweet observed Castillo look back toward the officers and begin running. Officer Smith observed Castillo running with his right hand holding onto his waistband, consistent with carrying a weapon or contraband. Officer Smith exited the police vehicle and engaged in a foot

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<sup>5</sup> The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.

pursuit after Castillo. Officer Sweet parked the police vehicle and joined in the foot pursuit. At the termination of the foot pursuit, Castillo attempted to climb over a fence into a residential area and was physically detained by Officers Smith and Sweet which resulted in a Non-Lethal Use of Force. Castillo was determined to have been in possession of a machete, green leafy substance resembling marijuana, and a can of spray paint. The officers' actions were appropriate and within Department policies and procedures.

## Tactics

Department policy relative to a Tactical Debrief is: "*The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance.*"

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

### Tactical De-Escalation

*Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

### Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, Officers Smith and Sweet were in the area of the MTA platform in response to recent crimes which had occurred in the vicinity. As the officers were beginning to initiate an investigation, the suspect ran from the location, possibly armed with a weapon or concealing contraband, with the officers initiating a foot pursuit. At the termination of the foot pursuit, the suspect attempted to climb over a fence resulting in a UOF.

**Planning** – Officers Smith and Sweet were both assigned to the Hollenbeck GED unit. They worked together for approximately four months prior to the incident and had discussed tactics including the roles of contact and cover, containment and apprehension modes of foot pursuits, the issue of separation and responsibilities of broadcasting of foot pursuits, and the response to various radio calls including shootings and robberies. While it would have been preferred that the officers created a more specific plan during this incident, the rapid escalation of Castillo running from the officers prevented them from formulating a more detailed plan.

**Assessment** – The officers first assessed the incident and observed Castillo and two females sitting in the area of the MTA platform, which the officers interpreted as a possible violation of the no-loitering policy at the platform. As the officers began to approach to conduct their investigation, they observed Castillo run from the location. During the foot pursuit, the officers continuously assessed the movements and direction of travel of Castillo. At the termination of the foot pursuit, the officers assessed that Castillo was continuing to attempt to evade being detained and attempted to climb a fence. The officers utilized a minimum amount of force to detain and handcuff Castillo, continuously assessing Castillo's actions while he was being taken into custody.

**Time** – The officers were faced with a rapidly escalating incident where Castillo ran from them to evade being detained. As they officers engaged in foot pursuit, Castillo reached his hand toward his waistband and it was unknown to the officers if he was reaching toward an unknown weapon or contraband. At the termination of the foot pursuit, Castillo reached up and grabbed the top of a fence, attempting to climb over. Castillo's actions did not afford the officers any additional time and limited their tactical options.

**Redeployment and/or Containment** – As the officers approached the area where Castillo was sitting, Castillo walked and then ran from the location. Due to the rapid escalation of the Castillo's actions, the officers had a limited opportunity to utilize other options and initiated a foot pursuit after Castillo. Officer Smith utilized his hand-held radio to broadcast the foot pursuit and location where responding units could establish containment of Castillo. At the termination of the foot pursuit, Castillo attempted to climb over a fence into a residential neighborhood, resulting in Officers Smith and Sweet physically taking Castillo into custody. The short duration of the incident did not allow for containment to be established prior to taking Castillo into custody.

**Other Resources** – Due to the rapid escalation of the incident by Castillo as he ran from the officers, the first broadcast from the officers for additional resources was Officer Smith's broadcast that they were in foot pursuit. Once the suspect was taken into custody, the officers requested a supervisor and an RA. The additional officers who responded to the location worked in cooperation to handle the required activities to resolve the incident.

**Lines of Communication** – Officers Smith and Sweet initially opened lines of communication between each other when they communicated their observations of the activities at the MTA platform and talked about meeting with Castillo and the two other females. Officer Smith advised Officer Sweet that Castillo was running from the location and then broadcasted that the

officers were in foot pursuit. At the termination of the foot pursuit, Officer Smith commanded Castillo to let go of the fence that he was attempting to climb over. Once Officer Sweet joined them, Officers Sweet and Smith communicated with each other and continued to order Castillo to let go of the fence. Once Castillo came down from the fence, the officers coordinated with each other and handcuffed Castillo.

The UOFRB determined, and I concur, that Officers Smith and Sweet attempted to de-escalate the incident, but the suspect's aggressive actions to evade detention, along with his violent physical resistance including kicking Officer Smith, prompted them to physically detain the suspect with a reasonable amount of force.

During the review of the incident, the following Debriefing Topics were noted:

**Debriefing Point No. 1      Code Six**

*When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call.*

*Units on "Code Six" status shall remain available for reassignment to priority calls by monitoring their radio frequencies. A unit on "Code Six" status may indicate to the dispatcher additional circumstances which will make the unit unavailable for assignment to a priority call. These circumstances may include:*

- *Suspect in custody;*
- *Primary unit at a crime scene; and/or,*
- *Required at a backup, assistance, or help location.*

*Note: The unit shall notify the dispatcher as soon as it is again available for radio calls (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

Officers Smith and Sweet did not advise CD of their Code Six location.

The purpose of broadcasting a Code Six location is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Vehicle and pedestrian stops can be dangerous, as the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

The officers were initially traveling in a commercial area and were not engaged in a specific activity. The officers approached the MTA Gold Line Platform and observed the suspect and two other individuals who were sitting on bench, possibly loitering. The officers, having knowledge that the train platforms had been the scene of many recent violent criminal acts, decided to direct their vehicle towards the individuals and investigate.

In this situation, though the officers were faced with a rapidly unfolding situation, the UOFRB discussed their preference that the officers had placed themselves Code Six upon making the decision to conduct a loitering investigation. The officers' observation of the fleeing suspect immediately required them to tactically deploy from the vehicle. Officer Smith, acknowledged that his partner, Officer Sweet, was going to be delayed *dealing with the vehicle* and unable to place the officers Code Six in a timely manner. The UOFRB also noted that Officer Smith stated that he had difficulty removing his hand-held radio from its holster. Thus, Officer Smith completed his initial transmission to CD as a foot pursuit broadcast at the first opportunity it was tactically feasible, which was approximately nine seconds into the incident. The incident rapidly escalated for the officers due to the actions of the suspect.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that in this situation, Officers Smith and Sweet's actions were not a substantial deviation from approved Department tactical training. I will direct that this be a topic of discussion during the Tactical Debrief.

#### **Debriefing Point No. 2      Pursuing Possibly Armed Suspects**

*Pursuing Armed Suspects: When pursuing a suspect believed to be armed, officers should generally do so in containment mode while considering the available tactical advantages, including cover and concealment where available. The goal is to maintain observation of the suspect and the tactical advantage while coordinating the response of additional units and other resources for a perimeter with the objective of containing the suspect and taking him into custody safely. The decision to pursue an armed suspect in apprehension mode may be appropriate when the suspect is at a tactical disadvantage and an arrest can be accomplished with limited risk to officers or innocent parties (Los Angeles Police Department Use of Force-Tactics Directive No. 3.2, Foot Pursuit Concepts, October 2013).*

Officers Smith and Sweet engaged in a foot pursuit of a suspect they believed to be possibly armed.

Containment of an armed suspect demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in foot pursuit of an armed suspect.

In this case, Officer Smith was initially in containment mode of as he tracked the suspect south in the alley. Officer Smith broadcast on Hollenbeck frequency to summon additional resources and utilized distance between himself and the suspect as the suspect continued to flee. Officers Smith and Sweet maintained a line of sight with one another and remained close enough to each other to render immediate aid, if necessary. The UOFRB also

examined the distance between both officers during the incident and determined that no separation, either by distance or barrier, occurred.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officer Smith and Sweet's actions were reasonable and did not substantially deviate from approved Department tactical training. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

#### **Debriefing Point No. 3      Approaching an Armed Suspect**

*There is an equation that saves lives: Distance + Cover = Time. Time gives officers options. Time is an essential element of de-escalation as it allows officers the opportunity to communicate with the suspect, refine tactical plans, and, if necessary, call for additional resources. Entering the suspect's space prematurely may force the suspect to take action, ultimately escalating the situation. Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate, or any similar object that prevents the assailant from reaching the officer (Los Angeles Police Department Training Bulletin, Weapons Other Than Firearms, Volume XLVI, Issue 3, October 2017).*

*Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

Officer Smith approached and initiated physical contact with a suspect he believed to be possibly armed.

When officers encounter a suspect that they believe is armed with a weapon, they are trained to place the suspect into a high-risk prone position to facilitate a safe approach to take the suspect into custody. This tactic provides the officers a tactical advantage and allows them to plan, communicate, redeploy, utilize cover, give commands and approach the suspect from a position of advantage.

In this case, Officer Smith transitioned from containment to apprehension mode when he observed Castillo place both of his hands atop of the fence, thus seeing Castillo did not have any weapons within his grasp. The UOFRB considered Officer Smith's general concern for public safety concerning Castillo climbing over the fence into a residential neighborhood and also the fact that no weapons were seen in Castillo's possession. The officers also had a belief that the suspect could possibly have been carrying contraband or was just securing his pants while he had been running.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officers Smith and Sweet's actions were not a substantial deviation from approved Department tactical training. I will direct this topic be discussed during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

**Searches of Arrestees** – The investigation revealed that Officers Smith and Sweet did not immediately complete a full search of the suspect when he was taken into custody. It was noted that Officer Smith had broadcast that the officers were in foot pursuit of a man with a gun and had felt an unknown object near the suspect's waistband when he had grabbed the suspect around the waist. The UOFRB noted that the suspect was taken into custody and secured with handcuffs and was lying in a stomach-down position on the ground with a portion of his shorts pulled down revealing his waistband. The suspect's rear waistband was clear of any items. Officer Sweet remained nearby Castillo. The officers then discovered a sheathed, broken machete along Castillo's front waistband. Although the officers were unsure if the suspect had been armed or was in possession of contraband, a suspect that has not been fully searched can pose a potential threat to the officers. I would have preferred that the officers completed a full search of the suspect more contemporaneously to when the suspect was handcuffed. The officers are reminded of the importance of searching all arrestees to ensure that they are not in possession of any weapons that they can still gain access to while handcuffed. I will direct this be a topic of discussion during the Tactical Debrief.

**Body Worn Video Activation** – The investigation revealed that Officer Smith did not activate his BWV until after the use of force had occurred. Captain R. Stabile, 26260, Commanding Officer, Hollenbeck Area, reviewed the circumstances of this and determined that the rapid escalation of the incident and Officer Smith's multi-tasking of initiating a foot pursuit, conducting a radio broadcast of the foot pursuit, and conducting a continuous assessment of the situation did not make the activation of his BWV feasible. The BWV was knocked off of Officer Smith by the suspect and was activated as soon as it was practical and safe to do so.

In addition, both Officers Smith and Sweet de-activated their BWV shortly after the suspect was taken into custody. Captain Stabile conducted a review of this circumstance and determined that Officers Smith and Sweet de-activated their BWV to give statements to Sergeant Olea regarding their use of force which was initially a NCUOF.

Captain Stabile conducted a review of the circumstances surrounding Officers Smith and Sweet's BWV activations. Captain Stabile determined that neither officer had any prior similar instances related to BWVs. Captain Stabile advised that to enhance future performance, the circumstances were reviewed with Officers Smith and Sweet and were addressed through divisional counseling. The Commanding Officer of Operations-Central Bureau (OCB) and the Director of the Office of Operations (OO) concurred with this action. As such, I deem no further action is necessary.

### **Command and Control**

*Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary*

*adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*

The senior officer, or any officer on-scene who has gained sufficient situational awareness, shall establish Command and Control and begin the process to develop a plan of action consistent with Department supervisory and tactical training.

Sergeant Olea was the first supervisor to arrive at the incident. Sergeant Olea received a briefing of the incident and began to conduct a NCUOF investigation. Doctor Chris Feng examined Castillo and ordered a consultation with an orthopedic surgeon. Doctor Franklyn Fenton conducted an assessment of Castillo and then admitted Castillo into LAC + USC. The medical procedures for Castillo caused a delay in determining if this incident met the criteria for a LERI. After Sergeant Olea received a telephonic notification from officers at LAC + USC that Castillo was going to be admitted for injuries, Sergeant Olea conducted a follow-up to the medical center to verify that Castillo was being admitted for injuries related to the UOF. Once the incident was determined to be a LERI, Sergeant Olea notified Sergeant Gallegos, who in turn notified the DOC of the LERI and the CUOF.

Sergeant Chacon monitored Officer Smith and ordered him to not discuss the incident. Sergeant Vasquez monitored Officer Sweet and ordered him to not discuss the incident.

The actions of Sergeants Olea, Gallegos, Chacon and Vasquez were consistent with Department supervisory training and met my expectations of field supervisors during a critical incident.

### **Tactical Debrief**

In conducting an objective assessment of this case, the UOFRB determined, and I concur, that Officers Smith and Sweet's tactics did not substantially deviate from approved Department tactical training.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, I will direct Officers Smith and Sweet attend a Tactical Debrief and that the specific identified topics are discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

### **General Training Update (GTU)**

On March 28, 2019, Officers Smith and Sweet attended a General Training Update. All mandatory topics were covered.

#### **Use of Force – General**

*It is the policy of this Department that personnel may use only that force which is “objectively reasonable” to:*

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*
- *Overcome resistance*

*The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*

- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
- *The environmental factors and/or other exigent circumstances. (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

### Drawing/Exhibiting

According to Officer Smith, he observed Castillo approximately 20 to 40 feet ahead of him hanging on the fence. Due to his prior observations that Castillo had reached towards his waistband and his belief that Castillo may be armed, Officer Smith slowed down to a fast walk, holstered his hand-held radio, and drew his service pistol as he approached Castillo.

Officer Smith recalled,

*As I come around, I see the suspect, like, hanging on the fence and I give him -- at one point I begin to like -- a fast -- I stop running into a fast walk and I unholster and I start giving him commands. He begins to pull himself back up and that's when I holster my gun again, and I go hands on with him...<sup>6</sup>*

*...Approximately 20 to 40 feet.<sup>7</sup>*

*I unholstered because I believed he was armed with a possible weapon, because I seen him reaching for his waistband. So because of that, I unholstered.<sup>8</sup>*

In this case, the UOFRB conducted a thorough review in evaluating the reasonableness of Officer Smith's Drawing/Exhibiting. The UOFRB noted that Officer Smith's knowledge that the area had recently experienced a rise of violent crime. Officer Smith also observed Castillo reaching his hand towards his waistband as he fled, prompting Officer Smith to form the opinion that Castillo was possibly armed.

As such, based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer Smith, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

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<sup>6</sup> Officer Smith, Page 24, Lines 6-11.

<sup>7</sup> Officer Smith, Page 28, Lines 9-10.

<sup>8</sup> Officer Smith, Page 27, Lines 18-21.

Therefore, I find Officer Smith's Drawing/Exhibiting to be In Policy, No Further Action.

### **Non-Lethal Use of Force<sup>9</sup>**

*It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*
- *Overcome resistance (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

**Officer Smith – Firm Grip, Physical Force, and body weight.**

According to Officer Smith, he was concerned that Castillo may scale the fence and *run into somebody else's house*, which prompted him to holster his service pistol and approach Castillo to take him into custody *before Castillo could finish pulling himself over the fence*. Officer Smith grabbed Castillo around his waist to prevent his escape over the fence. As he made physical contact with Castillo's right-side waistband, Officer Smith immediately felt the handle of an unknown type weapon with his right hand. Officer Smith didn't know what it was – he just felt a hard-handled object and believed Castillo to be carrying a concealed weapon. In fear for his safety, Officer Smith grabbed onto it and didn't let go. As Officer Smith grabbed the unknown object in Castillo's waistband, Castillo moved his left leg in a downward motion and kicked Officer Smith on the chest attempting to kick him away. Officer Smith maintained his grasp of the object and also grabbed onto Castillo's right leg to control Castillo's movement. Castillo then tried to kick Officer Smith a couple other times causing Officer Smith's BWV and hand-held radio to fall to the ground. Officer Smith used a firm grip on Castillo's left hip and right leg and continued to struggle to keep Castillo from climbing the fence.

Officer Smith recalled,

*Because I could see his hands on top of the fence, I went hands on with him before he could finish pulling himself over...So I didn't want him to run into somebody else's house or something like that.<sup>10</sup>*

*As I gave him commands, he again pulls himself back up on the fence. At which time I holster my gun and I go hands on with him. And as I grab him, my right hand -- as soon as I grabbed onto his right hip area, I immediately grabbed the -- a handle of an unknown type weapon. I still didn't know what it was. I just felt a hard-handled object. So, I grabbed on*

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<sup>9</sup> Los Angeles Police Department Manual, Volume 1, Section 556.10.

<sup>10</sup> Officer Smith, Page 30, Lines 8-16.

*that. I didn't let go. He kicked me in the chest, attempting to kick me away from him. I still hung onto that part, and I grabbed onto his right leg.<sup>11</sup>*

*I was kind of pulling, holding because he -- every time he'd pull up, I'd try to pull down. But he was -- at that point he kicked me. I think he kicked me right -- right -- once I grabbed onto his right waistband, I grabbed the -- what turned out to be a machete, he kicked me. And he tried to kick me a couple other times.<sup>12</sup>*

*I grabbed his left hip as well.<sup>13</sup>*

According to Officer Smith, as Castillo was still attempting to kick him, Officer Sweet approached and grabbed onto the left side of Castillo's body prompting Officer Smith to transfer over to Castillo's right side. As Castillo continued to struggle with the officers, Officer Smith made eye contact with Officer Sweet and the officers attempted to coordinate their movements as they pulled Castillo downward. As both officers began to pull, Castillo's exterior shorts fell down to his ankles, which forced the officers to re-grip their hands around Castillo. Officer Smith maintained a grasp of the weapon with his right hand. Officers Smith and Sweet grabbed both legs and pulled down causing Castillo to fall off the fence and onto his back. The officers then rolled Castillo over and Officer Smith placed his left knee on Castillo's upper back

Officer Smith recalled,

*At which time my partner approached and grabbed onto his left side of his body. We attempted to coordinate our pull. As we began to pull, the shorts -- his out -- exterior shorts fell down to his ankles, so we re-gripped and while I still had the weapon... my partner grabbed both legs and we pulled and got him off the fence. At which time he fell to the ground on his back. We rolled him over. I grabbed his left hand and placed it behind his back, and my partner grabbed his right arm and placed handcuffs on him.<sup>14</sup>*

*We coordinated our pull. I think we just, like, looked at each other and we pulled. As we pulled, his shorts fell to his ankles - - his exterior shorts. So my partner, he regained his grip and I regained my left-hand grip. I still had my right hand on the grip - - on the machete. And this time we pulled again and he fell off the fence.<sup>15</sup>*

*...I had my knee on his upper back area.<sup>16</sup>*

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<sup>11</sup> Officer Smith, Page 9, Lines 22-25, and Page 10, Lines 1-7.

<sup>12</sup> Officer Smith, Page 32, Lines 24-25, and Page 33, Lines 1-5.

<sup>13</sup> Officer Smith, Page 35, Lines 2-3.

<sup>14</sup> Officer Smith, Page 10, Lines 7-17.

<sup>15</sup> Officer Smith, Page 36, Lines 6-13.

<sup>16</sup> Officer Smith, Page 38, Lines 7-8.

**Officer Sweet – Firm Grip, physical Force, and bodyweight**

According to Officer Sweet, he grabbed onto Castillo's left ankle and stated, "I got him." After Officer Sweet established a firm grip of Castillo, the officers started pulling before Officer Sweet realized Castillo's shorts were coming down. Officer Sweet readjusted [sic] his grip and was able to get a hold of Castillo's left ankle. Officers Sweet and Smith then pulled on Castillo a second time and Castillo fell off the fence. As Castillo hit the ground, Officer Sweet heard a loud clanging noise – like something metal had hit the ground. The officers placed Castillo onto his stomach before Officer Sweet placed his body weight onto Castillo's right thigh and obtained a firm grip on his right arm.

Officer Sweet recalled,

*As I came around the -- I guess it's the corner of one of the properties, I could see that the suspect was up onto the fence as if he was trying to jump over into the east property at the end of the alley. And my partner had his hands around the suspect -- like the suspect's waist area, attempting to pull him down. I came up and I was giving him commands to let go of the fence so we could detain him, and he was trying to force his way up over the fence. So then I was able to grab onto his left ankle and pull him down. At which point we took him into custody. And as we were taking -- as we -- as I pulled him off the fence, I heard like a load – like a clanging noise, like something metal had hit the ground.<sup>17</sup>*

*...I gave him [Castillo] commands to let go and – meaning let go of the fence. I said it a few times to – just to let go of the fence.<sup>18</sup>*

*I grabbed the – when I approached the suspect, I had grabbed onto his left ankle. That was the first limb that I was able to reach. And I was – I started pulling onto his calf, and then I realized his pants are coming down and not him, so I readjusted and was able to get a hold onto his left ankle... I transitioned to his left calf with both hands (unintelligible) his ankle... I remember telling my partner, "I got him," referring to me having ahold of his ankle and I wasn't going to let go. And that's when I attempted to pull him down the first time. And like I had mentioned, I had grabbed onto his shorts instead. When I transitioned, that's when I was able to pull him down.<sup>19</sup>*

*... I placed my body weight onto his right thigh and that's when I got a firm grip on his right arm... When we rolled him over, I kind of -- we rolled him over when I grabbed his right arm and that was kind of pulled forward towards me, so western -- westerly. And that's when I was able to put his hand behind his back and placed my left knee on his right thigh.<sup>20</sup>*

The UOFRB reviewed each application of non-lethal force utilized by Officers Smith and Sweet. Castillo escalated the incident by fleeing on foot from the officers. Castillo grabbed onto the top of a fence and attempted to climb over it. Castillo also kicked Officer Smith in an attempt to

<sup>17</sup> Officer Sweet, Page 9, Lines 20-25, and Page 10, Lines 1-9.

<sup>18</sup> Officer Sweet, Page 27, Lines 5-8.

<sup>19</sup> Officer Sweet, Page 28, Lines 10-16 and Page 29, Lines 11-17

<sup>20</sup> Officer Sweet, page 31, Lines 17-19 and Lines 23-25, and Page 32, Lines 1-3.

prevent Officer Smith from taking physical control of Castillo. Throughout the incident, Castillo physically and violently resisted both Officers Smith and Sweet's attempts to detain Castillo. Both officers used a minimum level of force to overcome Castillo's resistance and handcuff him. The UOFRB noted that Castillo's injury which resulted in his hospitalization was caused by his grip on the metal fence, rather than from the force used by Officers Smith and Sweet.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Smith and Sweet, while faced with similar circumstances, would believe that the same application of non-lethal force would be reasonable to overcome Castillo's resistance.

Therefore, I find Officers Smith and Sweet's Non-Lethal Use of Force to be objectively reasonable and In Policy, No Further Action.

#### **Additional**

##### **Body Worn Video Activation**

Officer Flores deactivated his BWV before he entered the RA and escorted Castillo to the hospital. Captain Stabile advised that this issue was addressed through divisional counseling and the creation of a Supervisory Action Item (SAI). The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.<sup>21</sup>

In order to enhance future performance and to clarify the Department's policy in regards to the use of BWV by Department personnel, I issued a reminder to all Department personnel on October 30, 2019. The reminder reiterated that the "policy requires officers to activate their BWV devices during all-in-custody transports." I further explained that LAFD personnel "have been instructed to assume they are being recorded while working in close proximity" with Department personnel during the execution of their duties, "including within the treatment area of a Rescue Ambulance" during "all in-custody transport."

**Profanity** – The investigation revealed that Officer Sweet used profanity while taking the suspect into custody. The UOFRB considered the use of profanity and determined the utterance was a single expletive. The UOFRB opined that it was a spontaneous, emotional response to a dynamic incident. Captain Stabile advised that this issue was addressed through divisional counseling. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

##### **Audio/Video Recordings**

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<sup>21</sup> Department Manual Section, 3/579.15 defines the objectives of BWV and the exceptions when sworn personnel are not required to activate and record investigative or enforcement encounters with the public. Department policy requires officers to activate their BWV devices during all in-custody transports.

The Honorable Board of Police Commissioners

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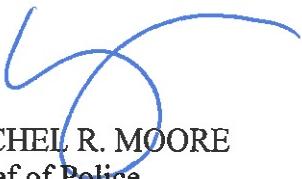
3.2

**Digital In-Car Video System (DICVS)** – Multiple police vehicles equipped with DICV responded to this incident. All were found to be of no evidentiary value as they did not capture the use of force.

**Digital In-Car Video System (DICVS)/ Body Worn Video (BWV)** – Hollenbeck GED personnel were equipped with DICVS and BWV at the time of this incident. The foot pursuit and ensuing use of force were captured on Officers Smith and Sweet's BWV.

**Outside Video** – No outside video surveillance captured the incident.

Respectfully,

  
MICHEL R. MOORE  
Chief of Police

Date: 1-6-20